

86th Legislative Session – 2011

Committee: House Judiciary

Wednesday, February 09, 2011

P - Present
E - Excused
A - Absent

Roll Call

P Abdallah
P Boomgarden
P Feinstein
P Gibson
P Hansen (Jon)
P Killer
P Kopp
P Nelson (Stace)
P Russell
P Tornow
P Turbiville
P Gosch, Vice-Chair
P Hunt, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Chair Hunt.

MOTION: TO APPROVE THE MINUTES OF FEBRUARY 7, 2011

Moved by: Turbiville
Second by: Abdallah
Action: Prevailed by voice vote.

MOTION: SUSPEND THE RULES TO ADD HB 1155 TO THE FEBRUARY 9, 2011 AGENDA

Moved by: Turbiville
Second by: Gosch
Action: Prevailed by roll call vote. (13-0-0-0)

Voting Yes: Abdallah, Boomgarden, Feinstein, Gibson, Hansen (Jon), Killer, Kopp, Nelson (Stace), Russell, Tornow, Turbiville, Gosch, Hunt

HB 1155: revise various trust provisions.

Proponents: Pat Goetzinger, Governors Trust Tax Force, Rapid City
Matt Tobin, SD Trust Co., Sioux Falls

THE CHAIR DEFERRED HB 1155

Chair Hunt turned the gavel over to Vice-Chair Gosch.

HB 1087: address comprehensibly the liability relationship between a trespasser and a person with a possessory interest in land.

Presented by: Representative Roger Hunt
Proponents: Michael Held, SD Farm Bureau
Craig Matson, State Farm Insurance
Lindsey Riter-Rapp, National Federation of Independent Business

MOTION: AMEND HB 1087

1087ra

On page 1, line 14, of the printed bill, after ";" insert "and".

On page 2, line 1, after ";" insert "and".

On page 2, line 3, after ";" insert "and".

Moved by: Tornow
Second by: Hansen (Jon)
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1087 AS AMENDED

Moved by: Turbiville
Second by: Tornow
Action: Prevailed by roll call vote. (11-2-0-0)

Voting Yes: Abdallah, Boomgarden, Gibson, Hansen (Jon), Kopp, Nelson (Stace), Russell,

Tornow, Turbiville, Gosch, Hunt

Voting No: Feinstein, Killer

HB 1206: revise certain provisions relating to grandparent visitation and to declare an emergency.

Presented by: Representative R. Shawn Tornow

Opponents: Steve Sibson, self, Mitchell

MOTION: DO PASS HB 1206

Moved by: Gosch

Second by: Hansen (Jon)

Action: Prevailed by roll call vote. (8-3-2-0)

Voting Yes: Boomgarden, Feinstein, Gibson, Hansen (Jon), Tornow, Turbiville, Gosch, Hunt

Voting No: Killer, Kopp, Nelson (Stace)

Excused: Abdallah, Russell

HB 1144: create a statutory lien for certain health care providers.

Presented by: Representative Roger Hunt

Proponents: Greg Lowenberg, SD Chiropractors

Opponents: Dave Hewett, SD Association of Healthcare Organizations
Darla Pollman-Rogers, Wellmark Blue Cross Blue Shield of SD
Joshua Andersen, SD Division of Insurance

MOTION: AMEND HB 1144

1144ja

On page 3, after line 16 of the printed bill, insert:

" Section 11. For any lien acquired pursuant to this Act, the amount of the lien may not exceed the amount the health care provider is entitled to pursuant to any contract the health care provider may have with an insurance carrier. The limitations in subdivision 58-17C-14(2) apply to the amount of the lien."

Moved by: Turbiville
Second by: Hansen (Jon)
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1144 AS AMENDED

Moved by: Turbiville
Second by: Hansen (Jon)
Action: Prevailed by roll call vote. (8-5-0-0)

Voting Yes: Abdallah, Gibson, Killer, Kopp, Tornow, Turbiville, Gosch, Hunt

Voting No: Boomgarden, Feinstein, Hansen (Jon), Nelson (Stace), Russell

HB 1145: provide for the identification of the law applicable to certain claims for damages.

Presented by: Representative Roger Hunt
Proponents: Jeff Stingley, Good Samaritan Society
Bob Riter, Jr., Good Samaritan Society
Thomas J. Kapusta, Good Samaritan Society
Dennis Duncan, SD Health Care Assoc./Trans Canada
Dave Hewett, SD Association of Healthcare Organizations
David Owen, SD Chamber of Commerce & Industry
Lorin Pankratz, Sanford Health
Opponents: Steven Siegel, SD Trial Lawyers Association

MOTION: DO PASS HB 1145

Moved by: Russell
Second by: Hansen (Jon)
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION AMEND HB 1145

1145ra

On page 1 of the printed bill, delete lines 11 and 12.

Moved by: Feinstein

Second by: Gibson

Action: Prevailed by roll call vote. (7-5-1-0)

Voting Yes: Feinstein, Gibson, Hansen (Jon), Killer, Russell, Tornow, Gosch

Voting No: Abdallah, Boomgarden, Kopp, Turbiville, Hunt

Excused: Nelson (Stace)

MOTION: DO PASS HB 1145 AS AMENDED

Moved by: Feinstein

Second by: Tornow

Action: Prevailed by roll call vote. (10-2-1-0)

Voting Yes: Abdallah, Boomgarden, Feinstein, Gibson, Hansen (Jon), Kopp, Russell, Tornow, Turbiville, Hunt

Voting No: Killer, Gosch

Excused: Nelson (Stace)

Vice-Chair Gosch returned the gavel to Chair Hunt.

HB 1171: provide that the use of force by a pregnant woman for the protection of her unborn child is an affirmative defense to prosecutions for certain crimes.

Presented by: Representative Phil Jensen

Proponents: Rita Houghlum, Eagle Forum

Dale Bartscher, Family Heritage Alliance

Cindy Flakoll, Concerned Women For America

Zach Lautenschlager, Campaign for Liberty

MOTION: AMEND HB 1171

1171ra

On the printed bill, delete everything after the enacting clause and insert:

" Section 1. That § 22-16-34 be amended to read as follows:

22-16-34. Homicide is justifiable if committed by any person while resisting any attempt to murder such person, or to harm the unborn child of such person in a manner and to a degree likely to result in the death of the unborn child, or to commit any felony upon him or her, or upon or in any dwelling house in which such person is.

Section 2. That § 22-16-35 be amended to read as follows:

22-16-35. Homicide is justifiable if committed by any person in the lawful defense of such person, or of his or her husband, wife, parent, child, master, mistress, or servant, or the unborn child of any such enumerated person, if there is reasonable ground to apprehend a design to commit a felony, or to do some great personal injury, and imminent danger of such design being accomplished."

Moved by: Tornow
Second by: Gosch
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1171 AS AMENDED

Moved by: Gosch
Second by: Turbiville
Action: Prevailed by roll call vote. (9-3-1-0)

Voting Yes: Boomgarden, Hansen (Jon), Kopp, Nelson (Stace), Russell, Tornow, Turbiville, Gosch, Hunt

Voting No: Feinstein, Gibson, Killer

Excused: Abdallah

MOTION: AMEND TITLE OF HB 1171

1171rta

On page 1, line 1, of the printed bill, delete everything after "to" and insert "expand the definition of justifiable homicide to provide for the protection of certain unborn children."

On page 1, delete lines 2 and 3.

Moved by: Turbiville

Second by: Hansen (Jon)
Action: Prevailed by voice vote.

HB 1183: protect the rights of public employees to participate in certain political activities and to have contact with elected officials.

Presented by: Representative Stace Nelson
Proponents: Corey Landeen, SD State Employees Organization
Opponents: Greg Sattizahn, Unified Judicial System
Doug Russell, Yankton, self
Yvonne Taylor, SD Municipal League
Dick Tieszen, Sioux Falls and Rapid City School Districts

MOTION: AMEND HB 1183

1183ta

On page 1, line 6, of the printed bill, after "on" insert "their, or their immediate family members'".

On page 2, line 3, after "of" insert "their, or their immediate family members".

On page 2, line 5, after "." insert "Nothing within this section shall be considered as allowing employees to misrepresent their position to speak on behalf of their employer.".

Moved by: Hansen (Jon)
Second by: Tornow
Action: Failed by roll call vote. (5-8-0-0)

Voting Yes: Hansen (Jon), Kopp, Nelson (Stace), Russell, Tornow

Voting No: Abdallah, Boomgarden, Feinstein, Gibson, Killer, Turbiville, Gosch, Hunt

MOTION: AMEND HB 1183

1183ra

On page 1, line 13, of the printed bill, delete everything after "executive" and insert "and legislative".

On page 2, line 1, after "." insert "The provisions of this section do not apply to judicial

employees."

On page 2, line 8, after "executive" delete ", legislative and judicial" and insert "and legislative".

On page 2, line 9, after "." insert "The provisions of this section do not apply to judicial employees."

Moved by: Abdallah
Second by: Gosch
Action: Prevailed by roll call vote. (9-4-0-0)

Voting Yes: Abdallah, Boomgarden, Feinstein, Gibson, Killer, Russell, Turbiville, Gosch, Hunt

Voting No: Hansen (Jon), Kopp, Nelson (Stace), Tornow

MOTION: DEFER HB 1183 TO THE 41ST LEGISLATIVE DAY

Moved by: Turbiville
Second by: Gosch
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION DO PASS HB 1183 AS AMENDED

Moved by: Tornow
Second by: Kopp
Action: Failed by roll call vote. (5-8-0-0)

Voting Yes: Hansen (Jon), Kopp, Nelson (Stace), Russell, Tornow

Voting No: Abdallah, Boomgarden, Feinstein, Gibson, Killer, Turbiville, Gosch, Hunt

MOTION: DEFER HB 1183 TO THE 41ST LEGISLATIVE DAY

Moved by: Turbiville
Second by: Gibson
Action: Prevailed by roll call vote. (8-5-0-0)

Voting Yes: Abdallah, Boomgarden, Feinstein, Gibson, Killer, Turbiville, Gosch, Hunt

Voting No: Hansen (Jon), Kopp, Nelson (Stace), Russell, Tornow

HB 1184: limit the subrogation of certain insurers unless and until the insurer is fully compensated.

Presented by: Representative Brian Gosch

Proponents: Senator Joni Cutler

Representative Susan Wismer

Steven Rounds, Pierre, self

Mike DeMersseman, Rapid City, self (handout #1)

Steve Siegel, SD Trial Lawyers

Opponents: Dick Tieszen, State Farm Insurance

Mike Shaw, DeSmet Insurance

Dennis Duncan, Dakotacare

Malcolm McKillop, Associated School Boards

Darla Pollman-Rogers, Wellmark Blue Cross Blue Shield of SD

Doug Abraham, Property Casualty Insurance Assoc.

Dave Hewett, SD Association of Healthcare Organizations

Lindsey Riter-Rapp, National Federation of Independent Business

Drew Duncan, SD Insurance Alliance

Margo Northrup, SD Manufactured Homes

MOTION: AMEND HB 1184

1184ja

On page 1, line 8, of the printed bill, after "." insert "The provisions of this Act do not apply to any workers' compensation recovery."

Moved by: Turbiville

Second by: Gibson

Action: Prevailed by voice vote.

MOTION: DO PASS HB 1184 AS AMENDED

Moved by: Turbiville

Second by: Feinstein

Action: Was not acted on.

MOTION: DEFER HB 1184 TO THE 41ST LEGISLATIVE DAY

Moved by: Russell

Second by: Tornow

Action: Failed by roll call vote. (4-9-0-0)

Voting Yes: Boomgarden, Nelson (Stace), Russell, Tornow

Voting No: Abdallah, Feinstein, Gibson, Hansen (Jon), Killer, Kopp, Turbiville, Gosch, Hunt

MOTION: DO PASS HB 1184 AS AMENDED

Moved by: Turbiville

Second by: Feinstein

Action: Prevailed by roll call vote. (9-4-0-0)

Voting Yes: Abdallah, Feinstein, Gibson, Hansen (Jon), Killer, Kopp, Turbiville, Gosch, Hunt

Voting No: Boomgarden, Nelson (Stace), Russell, Tornow

MOTION: AMEND TITLE OF HB 1184

1184rta

On page 1, line 2, of the printed bill, delete "insurer" and insert "insured".

Moved by: Feinstein

Second by: Turbiville

Action: Prevailed by voice vote.

MOTION: ADJOURN

Moved by: Gibson

Second by: Killer

Action: Prevailed by voice vote.

Cindy Tryon
Committee Secretary

Roger W. Hunt, Chair